IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.8105 OF 2004

Shri Kautik Nimba Nikam .. Petitioner.

v/s.

State of Maharashtra & ors. .. Respondents.

Mr.R.K.Mendadkar with Ms.Helen Koli-Mandlik for petitioner.

Mr.R.D.Rane, Additional Government Pleader for respondent Nos.1,2 and 4.

Ms.A.R.S.Baxi for respondent No.3.

CORAM : R.M. LODHA AND
R.S. MOHITE, JJ.

DATED : 18th March, 2005

P.C.

Heard Mr.R.K.Mendadkar, the learned counsel for the petitioner, Mr.R.D.Rane, the learned Additional Government Pleader for the respondent Nos.1,2 and 4 and Ms.A.R.S.Baxi, the learned counsel for the respondent No.3.

2. Rule. Returnable forthwith.

3. The counsel appearing for the respondents waive service.

4. In the order of this court passed on 4.11.2004

the statement of the counsel for the petitioner has been recorded that the petitioner and the members of his family shall not claim the status of scheduled tribe in future for any purpose whatsoever.

5. The learned counsel for the petitioner, however, submits that in the light of the Government resolution dated 15th June, 1995 which provides for reservation of the special backward class category in the Government and semi-Government service, the service of the petitioner with the respondent No.3 deserves to be protected since the petitioner belongs to special backward class category.

6. The learned counsel for respondent No.3 submits that for taking advantage of the Government resolution dated 15th June, 1995, the petitioner shall have to satisfy the respondent No.3 that he belongs to the special backward class category.

7. In the light of the submission made by the learned counsel for respondent No.3, Mr.Mendadkar, the learned counsel for the petitioner submits that the petitioner shall produce the relevant material before the respondent No.3 that he belongs to special backward class category and that he is covered by the Government Resolution dated 15th

June, 1995..

8. In the light of the submissions made by the learned counsel for the parties, we are satisfied that the rule may be disposed of by the following order:-

ORDER

(i) We record that the petitioner accepts the finding of the Caste Scrutiny Committee that he does not belong to the scheduled tribe and that he and his family members shall not claim the status of scheduled tribe henceforth for any purpose whatsoever.

(ii) We permit the petitioner to produce the requisite document/s before the respondent No.3 within eight weeks from today that he belongs to the special backward class category and that he is covered by Government Resolution dated 15th June, 1995.

(iii) We direct the respondent No.3 (MSEB) to consider the document/s so produced by the petitioner and if he is found to be covered by the Government resolution No. BCC-1094/CR.68/94/16B dated 15th June, 1995, accord the petitioner the benefit thereof.

(iv) The service of the petitioner shall remain protected until the final decision is taken by the respondent No.3-MSEB about applicability of Government Resolution dated 15th June, 1995 to the petitioner.

No costs.

(R.M. LODHA, J.)

(R.S. MOHITE, J.)